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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/595,494	06/15/2000	Hisayoshi Usui	13700	1390

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EXAMINER

BRINEY III, WALTER F

ART UNIT	PAPER NUMBER
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2646

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/595,494

Applicant(s)

USUI, HISAYOSHI

Examiner

Walter F. Briney III

Art Unit

2646

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 25 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-16.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 3. NOTE: specifically, the new limitations presented in claims 1, 15 and 16 have not been previously treated or indicated as allowable by the examiner.

Continuation of 11. does NOT place the application in condition for allowance because:

With respect to claim 6, the applicant alleges that Fukushi fails to disclose correcting received signal frequency data; the examiner respectfully disagrees. Simply, the term frequency data is broad and incorporates all elements involved with AC signals, including phase. Furthermore, the applicant's own specification appears to suggest correcting phase data. See page 12, lines 14-25, and figure 1, elements 144 and 152.

With further respect to claim 6, the applicant alleges that Fukushi fails to disclose a decoder for generating second quality data and received data, implying that the examiner has not fairly characterized the reference; the examiner respectfully disagrees. There are no hard lines recited in the claim as to what the decoder may or may not comprise. Quite assuredly, the decoder depicted in figure 1 of the applicant's specification includes separate circuitry for generating the second quality data and received data.

With respect to claim 8, the applicant alleges that the integrator does not output second quality data; the examiner respectfully disagrees. For clarification of the outstanding rejection, the coherent detector (26) is a part of second data generating means that includes the decoder used for generating the second quality data. The integrator, however, is ultimately responsible for generating the second quality data used to drive the comparator (29), which in turn drives switch (30). The fact that the second quality data only indirectly drives the switch (30) is immaterial given the scope of the claim, which merely recites that the second quality data is line control data, i.e. data used to control a line.

With respect to claim 9, the applicant alleges that the reference does not teach a data generating means that is a single element; the examiner respectfully disagrees. The claim does not specifically state the exact limits of the data generating means. Also, claims 1, 6 and 9 are independent and the examiner is allowed to base the rejections of each on different rationale and interpretations as necessary.

With respect to claims 10 and 11, the applicant alleges inconsistency between the elements cited in the rejections thereof; the examiner respectfully disagrees. The examiner, as noted above, has used both the phase discriminator and integrator together to read on the data generating means. The discriminator and integrator are not used independently, but are asserted to together from the claimed means. Because the claims do not specifically state the physical structure of the means, it is impossible to distinguish the combination of the discriminator and integrator therefrom.



**SINH TRAN**  
**SUPERVISORY PATENT EXAMINER**